

1 IN THE UNITED STATES DISTRICT COURT •

2 FOR THE DISTRICT OF HAWAII

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4 BERT MEYER,) CIVIL NO. 04-00049 HG/BMK
5 Plaintiff,) (In Admiralty
6 vs.)
7 MATSON NAVIGATION COMPANY,)
8 INC.,)
9 Defendant.)

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11 DEPOSITION OF BERT MEYER

12 Taken on behalf of the Defendant MATSON NAVIGATION
13 COMPANY, INC., at the law offices of Goodsill,
14 Anderson, Quinn & Stifel, 1099 Alakea Street, 1800
15 Ali'i Place, Honolulu, Hawaii 96813, commencing at
16 9:50 a.m., on Tuesday, August 31, 2004, pursuant to
17 Notice.

18
19 BEFORE: MYRLA R. SEGAWA, CSR No. 397

20 Notary Public, State of Hawaii
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23

24 **EXHIBIT O**
25

1 APPEARANCES:

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For Plaintiff BERT METER:

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For Defendant MATSON NAVIGATION COMPANY, INC.:

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1 Q So even if it's three high, you can
2 actually see it from standing down on the catwalk?

3 A Usually.

4 Q And on the evening of October 1, were you
5 able to see the cone locks as you were unlocking
6 them?

7 A Yes.

8 Q Do you recall what the weather was like
9 that evening?

10 A It was clear.

11 Q Had there been any mauka showers in the
12 area?

13 A No, not that I know of.

14 Q And had the crane started to work the
15 containers?

16 A I'm not sure.

17 Q So you would be working the aft containers?

18 A Yes.

19 Q Do you recall how many cranes were being
20 used that night on the Lihue?

21 A I don't recall.

22 Q Do you know where the cranes were located
23 at the time of your accident?

24 A No, I don't.

25 Q Were there any lights set up for the tender

1 areas where the pens were located?

2 A I believe so.

3 Q Do you recall what kind of lights?

4 A No, I don't.

5 Q Were they mobile lights or were they fixed?

6 A I don't recall.

7 Q Do you recall how many?

8 A No.

9 Q Now, focusing on the containers in row 15,
10 where did you start your process of unlocking the
11 cones? Is it on the in-shore or the outside?

12 A In-shore.

13 Q So had you moved from in-shore all the way
14 across to the harbor side of the container row?

15 A Yes.

16 Q And you had unlocked all the cones?

17 A Yes.

18 Q Except for those that stuck?

19 A Yes.

20 Q And do you recall how many had stuck?

21 A Two.

22 Q Okay. And where are they located?

23 A One was in the middle and one was on the
24 in-shore.

25 Q And do you know what had caused the one in

1 a little earlier about the weather and you said you
2 didn't recall any showers?

3 A No.

4 Q What about the moon, do you recall what the
5 state of the moon was?

6 A No, it wasn't out yet. It wasn't out. The
7 sun didn't set.

8 Q Did you say the sun had not set?

9 A I believe the moon wasn't out yet.

10 Q Okay. Let me make sure I understand that.
11 At the time of your accident, do you believe it was
12 still twilight?

13 A Yes.

14 Q Do you know if the sun had actually set?

15 A No, I don't.

16 Q Okay. And do you know if the moon had
17 actually risen?

18 A No, it didn't.

19 Q It had not?

20 A I'm assuming no, it didn't.

21 Q And was there a superintendent that night
22 on the job?

23 A Yes.

24 Q And do you recall who that was?

25 A Danny Farney.

1 A No, I can't recall.

2 Q I know you were telling me that the tenders
3 did have lights in the back. Where were the lights
4 in relationship to the containers that were behind
5 you?

6 A I don't recall.

7 Q Did you have any problems in seeing the
8 grate?

9 A No.

10 Q Were you able to see the padeye?

11 A Yes.

12 Q Now, you were describing that you stepped
13 on a padeye in order to get as close as you could to
14 the container?

15 A Yes.

16 Q And which foot did you put on the padeye?

17 A My left.

18 Q And where was your right foot?

19 A On the grate.

20 Q So you kind of stepped forward?

21 A Yes.

22 Q Did you ever put all of your weight on your
23 left foot?

24 A I don't recall.

25 Q Did you ever bring your right foot up to

1 the section with the pigs or any livestock.

2 Q So that's a less desirable section of the
3 ship?

4 A Yes.

5 Q Other than him laughing, did he say or do
6 anything about the slime or feces?

7 A No.

8 Q And so this is something you discussed with
9 him before you got to row 15?

10 A Yes.

11 Q Had you already been through the row?

12 A No. You can see it on the deck when you're
13 walking up to it before you get there.

14 Q When you say on the deck, what deck are you
15 referring to?

16 A The deck of the ship.

17 Q And this would be the deck where the first
18 stack of livestock containers are located?

19 A On row 16, yes.

20 Q That would be the main deck?

21 A Yes.

22 Q Now, you saw some slime and feces?

23 A You saw clumps of feces on the ground.

24 Q Okay. This was on the main deck?

25 A Yes.

1 Q Or I should say the same evening?

2 A Yes.

3 Q And does this show a view from the grate
4 where you stand and look at first of all the padeye
5 and look towards the hole?

6 A Yes.

7 Q Is that a fair description?

8 A I was on the catwalk looking.

9 Q Does this photograph accurately depict the
10 way the area looked on the night of your accident?

11 A Except for the bright paint I would say
12 yes.

13 Q Okay. Now what is it about the bright
14 paint?

15 A I don't recall it being that bright.

16 Q Well, do you recall there being yellow
17 paint on the padeye?

18 A I don't think there was.

19 Q How were you able to see the padeye to step
20 on it?

21 A There was enough light at the time to look
22 down and see it.

23 Q With regard to the padeye, then, at the
24 time of your accident, did it have any paint on it to
25 the best of your recollection?

C E R T I F I C A T E

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

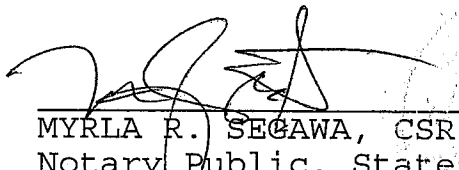
I, MYRLA R. SEGAWA, Notary Public, State of
Hawaii, do hereby certify:

That on Tuesday, August 31, 2004, at
9:50 a.m., appeared before me BERT MEYER, the witness
whose deposition is contained herein; that prior to
being examined he was by me duly sworn;

That the deposition was taken down by me in
machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct transcript of the proceedings had in the
foregoing matter.

I further certify that I am not an attorney
for any of the parties hereto, nor in any way
concerned with the cause.

DATED this 13th day of September, 2004, in
Honolulu, Hawaii.


MYRLA R. SEGAWA, CSR NO. 397
Notary Public, State of Hawaii
My Commission Exp: 1-27-2005